



Senate

General Assembly

File No. 327

February Session, 2006

Substitute Senate Bill No. 164

Senate, April 4, 2006

The Committee on Public Health reported through SEN. MURPHY of the 16th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING PATIENT ACCESS TO PHYSICAL THERAPY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (2) of section 20-66 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2006*):

4 (2) "Physical therapy" means the evaluation and treatment of any
5 person by the employment of the effective properties of physical
6 measures, the performance of tests and measurements as an aid to
7 evaluation of function and the use of therapeutic exercises and
8 rehabilitative procedures, with or without assistive devices, for the
9 purpose of preventing, correcting or alleviating a physical or mental
10 disability. [Physical therapy] "Physical therapy" includes the
11 establishment and modification of physical therapy programs,
12 treatment planning, instruction, wellness care, peer review and
13 consultative services, [. The term "physical therapy"] but does not
14 include surgery, the prescribing of drugs, the development of a
15 medical diagnosis of disease, injury or illness, the use of cauterization

16 or the use of Roentgen rays or radium for diagnostic or therapeutic
17 purposes.

18 Sec. 2. Subdivision (2) of section 20-66 of the general statutes, as
19 amended by section 12 of public act 00-226, is repealed and the
20 following is substituted in lieu thereof (*Effective the later of October 1,*
21 *2000, or the date notice is published by the Commissioner of Public Health in*
22 *the Connecticut Law Journal indicating that the licensing of athletic trainers*
23 *and physical therapist assistants is being implemented by the commissioner*):

24 (2) "Physical therapy" means the evaluation and treatment of any
25 person by the employment of the effective properties of physical
26 measures, the performance of tests and measurements as an aid to
27 evaluation of function and the use of therapeutic exercises and
28 rehabilitative procedures, with or without assistive devices, for the
29 purpose of preventing, correcting or alleviating a physical or mental
30 disability. "Physical therapy" includes the establishment and
31 modification of physical therapy programs, treatment planning,
32 instruction, wellness care, peer review and consultative services, but
33 does not include surgery, the prescribing of drugs, the development of
34 a medical diagnosis of disease, injury or illness, the use of cauterization
35 or the use of Roentgen rays or radium for diagnostic or therapeutic
36 purposes.

37 Sec. 3. Subdivision (2) of subsection (a) of section 20-73 of the
38 general statutes is repealed and the following is substituted in lieu
39 thereof (*Effective October 1, 2006*):

40 (2) (A) The treatment of human ailments by physical therapy shall
41 only be performed by a person licensed under the provisions of this
42 chapter as a physical therapist. Except as otherwise provided in
43 subparagraph (B) of this subdivision, such treatment may be
44 performed by a licensed physical therapist without an oral or written
45 referral by a person licensed in this state to practice medicine and
46 surgery, podiatry, natureopathy, chiropractic or dentistry, or an
47 advanced practice registered nurse licensed to prescribe in accordance
48 with section 20-94a or a physician assistant licensed to prescribe in

49 accordance with section 20-12d of the 2006 supplement to the general
50 statutes, provided the licensed physical therapist (i) has practiced
51 physical therapy for at least three out of the most recent six years of his
52 or her clinical practice or earned a master's degree or higher in
53 physical therapy from an accredited institution of higher education, (ii)
54 requires any person receiving such treatment to disclose or
55 affirmatively confirm the identity of such person's primary care
56 provider or health care provider of record upon each initial visit for
57 treatment without an oral or written referral, (iii) provides information
58 to any person seeking such treatment regarding the need to consult
59 with such person's primary care provider or health care provider of
60 record regarding such person's underlying medical condition if the
61 condition is prolonged, does not improve within a thirty-day period,
62 or continues to require ongoing continuous treatment, and (iv) refers
63 any person receiving such treatment to an appropriate licensed
64 practitioner of the healing arts if, upon examination or reexamination,
65 the same condition for which the person sought physical therapy does
66 not demonstrate objective, measurable, functional improvement in a
67 period of thirty consecutive days or at the end of six visits, whichever
68 is earlier.

69 (B) In any case in which the licensed physical therapist (i) does not
70 meet the standards set forth in subparagraph (A) of this subdivision
71 for treatment without a referral, (ii) is required to perform a Grade V
72 spinal manipulation and does not hold a doctorate level degree in
73 physical therapy from an accredited institution of higher education, or
74 have proof of completion of twenty-five hours of course work in Grade
75 V spinal manipulation that meets the minimum standards established
76 by the Physical Therapy Board of Examiners and three years of
77 experience in such manipulation, or (iii) has actual knowledge that the
78 condition for which treatment is being sought is connected to an injury
79 arising out of and in the course of the patient's employment, such
80 treatment shall only be performed upon the oral or written referral of a
81 person licensed in this state or in a [bordering] state having licensing
82 requirements meeting the [approval of] standards set by the
83 Department of Public Health and the appropriate examining board in

84 this state to practice medicine and surgery, podiatry, natureopathy,
85 chiropractic or dentistry, or an advanced practice registered nurse
86 licensed to prescribe in accordance with section 20-94a or a physician
87 assistant licensed to prescribe in accordance with section 20-12d, as
88 amended. A licensed physical therapist shall not be deemed to be in
89 violation of subparagraph (B)(iii) of this subdivision if, upon
90 reasonable inquiry of the patient by such physical therapist into the
91 nature and source of the patient's condition, the patient fails to disclose
92 that such condition is connected to an injury that arose out of and in
93 the course of the patient's employment. Nothing in this section shall
94 prevent a physical therapist from providing wellness care within the
95 scope of physical therapy practice to asymptomatic persons without a
96 referral. Nothing in this section shall require an employer or insurer to
97 pay for such wellness care. For purposes of this subdivision, "arising
98 out of and in the course of the patient's employment" has the same
99 meaning as "arising out of and in the course of his employment" in
100 section 31-275 of the 2006 supplement to the general statutes.

101 Sec. 4. Subsection (b) of section 20-73 of the general statutes, as
102 amended by section 15 of public act 00-226, is repealed and the
103 following is substituted in lieu thereof (*Effective the later of October 1,*
104 *2000, or the date notice is published by the Commissioner of Public Health in*
105 *the Connecticut Law Journal indicating that the licensing of athletic trainers*
106 *and physical therapist assistants is being implemented by the commissioner):*

107 (b) (1) The treatment of human ailments by physical therapy shall
108 only be performed by a person licensed under the provisions of this
109 chapter as a physical therapist or physical therapist assistant. Except as
110 otherwise provided in subdivision (2) of this subsection, such
111 treatment may be performed by a licensed physical therapist without
112 an oral or written referral by a person licensed in this state to practice
113 medicine and surgery, podiatry, natureopathy, chiropractic or
114 dentistry, or an advanced practice registered nurse licensed to
115 prescribe in accordance with section 20-94a or a physician assistant
116 licensed to prescribe in accordance with section 20-12d of the 2006
117 supplement to the general statutes, provided the licensed physical

118 therapist (A) has practiced physical therapy for at least three out of the
119 most recent six years of his or her clinical practice or earned a master's
120 degree or higher in physical therapy from an accredited institution of
121 higher education, (B) requires any person receiving such treatment to
122 disclose or affirmatively confirm the identity of such person's primary
123 care provider or health care provider of record upon each initial visit
124 for treatment without an oral or written referral, (C) provides
125 information to any person seeking such treatment regarding the need
126 to consult with such person's primary care provider or health care
127 provider of record regarding such person's underlying medical
128 condition if the condition is prolonged, does not improve within a
129 thirty-day period, or continues to require ongoing continuous
130 treatment, and (D) refers any person receiving such treatment to an
131 appropriate licensed practitioner of the healing arts if, upon
132 examination or reexamination, the same condition for which the
133 person sought physical therapy does not demonstrate objective,
134 measurable, functional improvement in a period of thirty consecutive
135 days or at the end of six visits, whichever is earlier.

136 (2) In any case in which the licensed physical therapist (A) does not
137 meet the standards set forth in subdivision (1) of this subsection for
138 treatment without a referral, (B) is required to perform a Grade V
139 spinal manipulation and does not hold a doctorate level degree in
140 physical therapy from an accredited institution of higher education, or
141 have proof of completion of twenty-five hours of course work in Grade
142 V spinal manipulation that meets the minimum standards established
143 by the Physical Therapy Board of Examiners and three years of
144 experience in such manipulation, or (C) has actual knowledge that the
145 condition for which treatment is being sought is connected to an injury
146 arising out of and in the course of the patient's employment, such
147 treatment shall only be performed upon the oral or written referral of a
148 person licensed in this state, or in a [bordering] state having licensing
149 requirements meeting the [approval of] standards set by the
150 Department of Public Health and the appropriate examining board in
151 this state, to practice medicine and surgery, podiatry, natureopathy,
152 chiropractic or dentistry, or an advanced practice registered nurse

153 licensed to prescribe in accordance with section 20-94a or a physician
154 assistant licensed to prescribe in accordance with section 20-12d, as
155 amended. A licensed physical therapist shall not be deemed to be in
156 violation of subparagraph (C) of this subdivision if, upon reasonable
157 inquiry of the patient by such physical therapist into the nature and
158 source of the patient's condition, the patient fails to disclose that such
159 condition is connected to an injury that arose out of and in the course
160 of the patient's employment. Nothing in this section shall prevent a
161 physical therapist from providing wellness care within the scope of
162 physical therapy practice to asymptomatic persons without a referral.
163 Nothing in this section shall require an employer or insurer to pay for
164 such wellness care. For purposes of this subdivision, "arising out of
165 and in the course of the patient's employment" has the same meaning
166 as "arising out of and in the course of his employment" in section 31-
167 275 of the 2006 supplement to the general statutes.

168 Sec. 5. Section 20-73a of the general statutes is repealed and the
169 following is substituted in lieu thereof (*Effective October 1, 2006*):

170 (a) The Board of Examiners for Physical Therapists shall have
171 jurisdiction to hear all charges of conduct that fails to conform to the
172 accepted standards of the practice of physical therapy brought against
173 any person licensed as a physical therapist and, after holding a
174 hearing, written notice of which shall be given the person complained
175 of, said board, if it finds such person to be guilty, may revoke or
176 suspend such person's license or take any of the actions set forth in
177 section 19a-17. Any proceedings relative to such action may be begun
178 by the filing of written charges with the Commissioner of Public
179 Health. The causes for which such action may be taken are as follows:
180 (1) Conviction in a court of competent jurisdiction, either within or
181 without this state, of any crime in the practice of his or her profession;
182 (2) illegal, incompetent or negligent conduct in the practice of physical
183 therapy or in the supervision of a physical therapist assistant; (3)
184 aiding or abetting the unlawful practice of physical therapy; (4)
185 treating human ailments by physical therapy without the oral or
186 written referral by a person licensed in this state or in a [bordering]

187 state having licensing requirements meeting the approval of the
188 appropriate examining board in this state to practice medicine and
189 surgery, podiatry, natureopathy, chiropractic or dentistry if such
190 referral is required pursuant to section 20-73, as amended by this act;
191 (5) failure to register with the Department of Public Health as required
192 by law; (6) fraud or deception in obtaining a license; (7) engaging in
193 fraud or material deception in the course of professional services or
194 activities; (8) failure to comply with the continuing education
195 requirements of section 20-73b, as amended by this act; or (9) violation
196 of any provision of this chapter, or any regulation adopted [hereunder]
197 under this chapter.

198 (b) The clerk of any court in this state in which a person practicing
199 physical therapy has been convicted of any crime as described in this
200 section shall, immediately after such conviction, transmit a certified
201 copy, in duplicate, of the information and judgment, without charge,
202 to the Department of Public Health, containing the name and address
203 of the physical therapist, the crime of which he has been convicted and
204 the date of conviction. The hearing on such charges shall be conducted
205 in accordance with the regulations adopted by the Commissioner of
206 Public Health. Any person aggrieved by a final decision of said board
207 may appeal [therefrom] from the decision as provided in section 4-183.
208 Such appeal shall have precedence over nonprivileged cases in respect
209 to order of trial. The Attorney General shall act as attorney in the
210 public interest in defending against such an appeal. The board may
211 petition the superior court for the judicial district of Hartford to
212 enforce any action taken pursuant to section 19a-17.

213 Sec. 6. Section 20-73a of the general statutes, as amended by section
214 16 of public act 00-226, is repealed and the following is substituted in
215 lieu thereof (*Effective the later of October 1, 2000, or the date notice is*
216 *published by the Commissioner of Public Health in the Connecticut Law*
217 *Journal indicating that the licensing of athletic trainers and physical therapist*
218 *assistants is being implemented by the commissioner):*

219 (a) The Board of Examiners for Physical Therapists shall have

jurisdiction to hear all charges of conduct that fails to conform to the accepted standards of the practice of physical therapy brought against any person licensed as a physical therapist or physical therapist assistant and, after holding a hearing, written notice of which shall be given to the person complained of, the board, if it finds such person to be guilty, may revoke or suspend such person's license or take any of the actions set forth in section 19a-17. Any proceedings relative to such action may be begun by the filing of written charges with the Commissioner of Public Health. The causes for which such action may be taken are as follows: (1) Conviction in a court of competent jurisdiction, either within or without this state, of any crime in the practice of such person's profession; (2) illegal, incompetent or negligent conduct in the practice of physical therapy or in the supervision of a physical therapist assistant; (3) aiding or abetting the unlawful practice of physical therapy; (4) treating human ailments by physical therapy without the oral or written referral by a person licensed in this state or in a [bordering] state having licensing requirements meeting the approval of the appropriate examining board in this state to practice medicine and surgery, podiatry, natureopathy, chiropractic or dentistry if such referral is required pursuant to section 20-73, as amended by this act; (5) failure to register with the Department of Public Health as required by law; (6) fraud or deception in obtaining a license; (7) engaging in fraud or material deception in the course of professional services or activities; [or] (8) failure to comply with the continuing education requirements of section 20-73b, as amended by this act; or (9) violation of any provision of this chapter, or any regulation adopted under this chapter.

(b) The clerk of any court in this state in which a person practicing physical therapy has been convicted of any crime as described in this section shall, immediately after such conviction, transmit a certified copy, in duplicate, of the information and judgment, without charge, to the Department of Public Health, containing the name and address of the physical therapist or physical therapist assistant, the crime of which the physical therapist or physical therapist assistant has been convicted and the date of conviction. The hearing on such charges shall

255 be conducted in accordance with the regulations adopted by the
256 Commissioner of Public Health in accordance with chapter 54. Any
257 person aggrieved by a final decision of the board may appeal
258 [therefrom] from the decision as provided in section 4-183. Such appeal
259 shall have precedence over nonprivileged cases in respect to order of
260 trial. The Attorney General shall act as attorney in the public interest in
261 defending against such an appeal. The board may petition the superior
262 court for the judicial district of Hartford to enforce any action taken
263 pursuant to section 19a-17.

264 Sec. 7. Section 20-73b of the general statutes is repealed and the
265 following is substituted in lieu thereof (*Effective October 1, 2006*):

266 (a) [Each] Except as otherwise provided in this section, each
267 physical therapist licensed pursuant to this chapter shall complete a
268 minimum of twenty hours of continuing education during each
269 registration period. For purposes of this section, registration period
270 means the twelve-month period for which a license has been renewed
271 in accordance with section 19a-88, as amended, and is current and
272 valid. The continuing education shall be in areas related to the
273 individual's practice. Qualifying continuing education activities
274 include, but are not limited to, courses offered or approved by the
275 Connecticut Physical Therapy Association.

276 (b) Each licensee shall obtain a certificate of completion from the
277 provider of continuing education activities for all continuing education
278 hours successfully completed. Each licensee shall maintain such
279 written documentation for a minimum of three years following the
280 license renewal date for which the activity satisfies continuing
281 education requirements. Certificates of completion shall be submitted
282 by the licensee to the Department of Public Health [upon the
283 department's request] not later than forty-five days after a request by
284 said department for such certificates. A licensee who fails to comply
285 with the continuing education requirements may be subject to
286 disciplinary action pursuant to section 20-73a, as amended by this act.

287 (c) The continuing education requirements shall be waived for

288 licensees applying for licensure renewal for the first time. The
 289 department may, for a licensee who has a medical disability or illness,
 290 grant a waiver of the continuing education requirements [for a specific
 291 period of time] or may grant the licensee an extension of time in which
 292 to fulfill the requirements, provided the licensee submits to the
 293 Department of Public Health an application for waiver or extension of
 294 time on a form prescribed by said department, along with a
 295 certification by a licensed physician of the disability or illness and such
 296 other documentation as may be required by said department. The
 297 Department of Public Health may grant a waiver or extension for a
 298 period not to exceed one registration period, except that said
 299 department may grant additional waivers or extensions if the medical
 300 disability or illness upon which a waiver or extension is granted
 301 continues beyond the period of the waiver or extension and the
 302 licensee applies to said department for an additional waiver or
 303 extension.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2006	20-66(2)
Sec. 2	<i>the later of October 1, 2000, or the date notice is published by the Commissioner of Public Health in the Connecticut Law Journal indicating that the licensing of athletic trainers and physical therapist assistants is being implemented by the commissioner</i>	20-66(2)
Sec. 3	October 1, 2006	20-73(a)(2)

Sec. 4	<i>the later of October 1, 2000, or the date notice is published by the Commissioner of Public Health in the Connecticut Law Journal indicating that the licensing of athletic trainers and physical therapist assistants is being implemented by the commissioner</i>	20-73(b)
Sec. 5	<i>October 1, 2006</i>	20-73a
Sec. 6	<i>the later of October 1, 2000, or the date notice is published by the Commissioner of Public Health in the Connecticut Law Journal indicating that the licensing of athletic trainers and physical therapist assistants is being implemented by the commissioner</i>	20-73a
Sec. 7	<i>October 1, 2006</i>	20-73b

Statement of Legislative Commissioners:

In subdivision (2)(A) of section 3 and subsection (b)(1) of section 4, the thirty-day or six visit time period for demonstrating improvement was rewritten for clarity.

PH *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Public Health, Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal
Comptroller Misc. Accounts (Fringe Benefits)	GF - None	None	None

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 07 \$	FY 08 \$
Various Municipalities	Cost	See Below	See Below

Explanation

While the bill permits certain physical therapists to treat patients without physician referral, state employee health plans explicitly require either pre-authorization or a referral for physical therapy. Therefore, no fiscal impact to the state as an employer will result from passage of this bill. It is similarly assumed that the majority of municipal employee health plans currently explicitly requires physician referral and/or prior authorization of these services, or would seek to impose these restrictions upon passage of this bill. Therefore, it is anticipated that no appreciable municipal cost will result from its passage.

The bill makes failure to comply with continuing education requirements a cause for disciplinary action by the Board of Examiners for Physical Therapists. Per Section 19a-17 CGS, disciplinary action may include assessment of a civil penalty of up to \$10,000.

It also requires the Department of Public Health to provide forms for use by physical therapists when applying for a waiver from continuing education requirements, or an extension of time to

complete continuing education requirements. The agency will be able to do so without requiring additional resources.

The Out Years

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$	FY 11 \$
Public Health, Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal	Potential Minimal
Comptroller Misc. Accounts (Fringe Benefits)	GF - None	None	None	None

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 09 \$	FY 10 \$	FY 11 \$
Various Municipalities	Cost	See Above	See Above	See Above

OLR Bill Analysis
sSB 164**AN ACT CONCERNING PATIENT ACCESS TO PHYSICAL THERAPY.****SUMMARY:**

This bill allows physical therapists meeting certain standards to treat patients directly, without referral from another health care practitioner. But under three conditions it requires a referral. The bill specifies procedures a physical therapist must follow in treating patients directly. It specifies that “physical therapy” does not include surgery; prescribing drugs; or diagnosing disease, injury, or illness.

The bill (1) specifies acceptable continuing education activities; (2) authorizes the Board of Examiners for Physical Therapists to take disciplinary action, including license suspension or revocation, against a physical therapist who fails to comply with continuing education requirements; and (3) modifies the process for seeking a waiver from continuing education requirements.

EFFECTIVE DATE: October 1, 2006 for sections 1, 3, 5, and 7; the later of October 1, 2000 or the date notice is published by the DPH commissioner in the Connecticut Law Journal that the licensing of athletic trainers and physical therapist assistants is being implemented for sections 2, 4, and 6.

DIRECT ACCESS TO PHYSICAL THERAPISTS

Under current law, physical therapists can only treat patients referred to them by a physician, podiatrist, natureopath, chiropractor, dentist, advanced practice registered nurse, or physician assistant, except in the case of wellness care. However, they can provide wellness care to anyone without symptoms of illness or injury, with or

without referral from one of these health care providers. “Wellness care” means services related to conditioning and fitness, strength training, workplace ergonomics, or injury prevention.

This bill allows a licensed physical therapist to treat human ailments without an oral or written referral if he:

1. has practiced physical therapy for at least three out of the most recent six years of his clinical practice or earned a master’s or higher degree in physical therapy from an accredited institution of higher education;
2. requires the patient to disclose or confirm the name of his primary care provider or provider of record the first time he treats him without referral;
3. provides information to anyone seeking treatment about the need to consult with his primary care provider or provider of record regarding the person’s underlying condition if it is prolonged, does not improve within 30 days, or still requires continuous treatment; and
4. refers the patient to one of the licensed practitioners listed above if, after examination or reexamination, the condition for which the patient sought physical therapy does not show objective, measurable, functional improvement in any 30-day consecutive period or at the end of six visits, whichever occurs sooner.

REFERRALS REQUIRED FOR PHYSICAL THERAPY

The bill establishes three conditions under which an oral or written referral is required before a person can receive physical therapy. The physical therapist:

1. does not meet the above standards for direct access,
2. is required to perform a Grade V spinal manipulation but does not hold a PhD in physical therapy from an accredited

university or have proof that he has (a) completed 25 hours of course work in Grade V spinal manipulation that meets the Physical Therapy Board of Examiners' minimum standards and (b) three years experience in such treatment, and

3. knows the condition for which the patient is seeking treatment is connected to a job-related injury.

A physical therapist does not violate the requirement for a referral to treat work-related injuries if he asks the patient about the source and nature of his condition and the patient does not disclose that it "arose out of and in the course of the patient's employment." This term encompasses an accidental injury or occupational disease that started while the patient was working at the employer's work site or elsewhere at the employer's direction. For a police officer, firefighter, and certain Department of Correction employees, it includes travel to and from home and work.

As under current law, the referral must come from one of the practitioners listed above. Under the bill, the person may be licensed in Connecticut or any state whose licensing requirements meet Department of Public Health (DPH) standards and those of the appropriate examining board in this state. Current law recognizes referrals from in-state practitioners and out-of-state practitioners from bordering states whose licensure requirements are approved by a Connecticut examining board.

CONTINUING EDUCATION

The law requires licensed physical therapists to complete 20 hours of continuing education during each 12-month registration period in order to renew their licenses. The bill specifies that courses offered or approved by the Connecticut Physical Therapy Association are considered qualifying continuing education activities.

Physical therapists completing continuing education activities must get a completion certificate from the provider of the activity. Currently, a physical therapist must submit the certificate to the DPH

upon request. The bill requires submission within 45 days after DPH requests it.

By law, DPH can grant a waiver or time extension for completing continuing education requirements in the case of medical disability or illness. The bill requires the licensee to submit a waiver or extension application to DPH, certification by a licensed physician of the disability or illness, and any other documentation DPH may require. It allows DPH to grant the waiver or time extension for up to one registration period, rather than for any time period. DPH can grant additional waivers or extensions if the disability or illness continues beyond the waiver or extension period and the licensee applies to DPH for that additional period.

COMMITTEE ACTION

Public Health Committee

Joint Favorable

Yea 19 Nay 7 (03/20/2006)